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The contemporary crisis of compliance

Submitted by the United States

The Nuclear Nonproliferation Treaty (NPT) occupies a vital position at the core of the international community's broader efforts to preserve and promote peace and security by preventing the spread of all weapons of mass destruction. While, at its core, the NPT revolves around states' agreement to nonproliferation principles that protect their common security, it also incorporates an important understanding: countries should be entitled to cooperate to obtain the benefits that peaceful nuclear energy and research can bring to mankind, but they may do so only if they comply with the provisions of the Treaty designed to prevent the misuse of such technology and the proliferation of nuclear weapons.

The two components of this understanding, shared benefits and nonproliferation compliance, are inseparable. Problems with compliance, therefore, threaten the security and other benefits of the Treaty that are the reason why more than 180 states have become parties. There has been, however, a serious breakdown of compliance by a few NPT parties with the core nonproliferation undertakings of the Treaty contained in Articles II and III. Because of the connection between Article II compliance and the right of an NPT party under Article IV to peaceful nuclear cooperation, Article IV has also taken center stage in discussions on compliance.

The nonproliferation component of the NPT regime has several elements, of which the IAEA, as an international monitoring mechanism and institution for detecting safeguards noncompliance, is a key part. Each non-nuclear weapon state party to the Treaty is required to conclude a safeguards agreement with the IAEA covering all nuclear material within the territory of the state under its jurisdiction, or carried out under its control anywhere. In the event that inspectors report noncompliance with a state's obligations under its NPT safeguards agreement to the IAEA Director General, the Director General transmits the report to the IAEA Board of Governors. The Board, in turn, *must* report any safeguards noncompliance that it finds to all IAEA members and to the U.N. Security Council and General Assembly. In addition to the provisions for reporting noncompliance,

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the IAEA's Statute also calls for it to report to the Security Council if questions arise regarding the IAEA's activities that are within the competence of the Security Council.

The Security Council has responsibility for determining t'ie existence of threats to the peace, breaches of the peace, or acts of aggression, and for deciding on measures to maintain or restore international peace and security. Accordingly, the Security Council may play a role in remedying both safeguards noncompliance and other non-safeguards related NPT violations. National governments also play a critical role both in deterring and detecting violations, and in taking resolute action -- individually and collectively -- to enforce compliance and hold violators accountable for their actions.

The nonproliferation regime works best when these elements act smoothly together to deter, detect, and remedy noncompliance. International and regional security is seriously jeopardized if violations are not dealt with decisively and effectively. They should not be missed, whitewashed, excused, or simply ignored.

A bedrock principle of international law is the maxim *pacta sunt servanda* (agreements must be respected). This is the core of compliance policy: agreements, the law demands, must be kept. To insist upon anything less would debase the currency of international discourse and make it impossible to realize the contributions that arms control, nonproliferation, and disarmament agreements can make to international peace and security. A world in which countries can ignore their commitments is a world more dangerous for all of us. The pretense of arms control, however, is even more dangerous, for it can provide a false sense of security that constrains only the honest. If an agreement is worth having -- and the United States believes that the NPT is such an agreement -- it is necessarily worth enforcing.

The world today faces a crisis of compliance in the NPT regime. Iran, Libya, Iraq and North Korea, were all able to pursue nuclear weapons programs -- in North Korea's case even actually building nuclear weapons -- in violation of Articles II and III of the NPT while variously pursuing "peaceful" nuclear programs, claiming legitimacy as members in good standing of the NPT system, and in some cases even receiving international assistance. Of these, only Libya has taken clear steps to recommit itself to adherence to the nonproliferation regime and abandoned its pursuit of weapons of mass destruction. Iran and North Korea remain compliance challenges that have yet to be fully addressed.

As serious as are the threats Iran and North Korea pose to international peace and security in and of themselves, they also represent fundamental challenges to the nonproliferation regime *as a whole*. Iran and North Korea are not just country-specific, bilateral, or even multilateral problems: they are problems for the nonproliferation regime itself, and the international community must hold these states accountable for their noncompliance; failure to do so would not be lost upon other would-be violators. Despite Libya's welcome steps to support the nonproliferation regime, there are likely others tempted to confront the international community as has Iran and North Korea. The future credibility of the NPT regime depends upon our collective response to these challenges.

That is why it is so important to focus on the crucially important issue of compliance with the fundamental nonproliferation obligations of the Treaty. The United States believes it vital to ensure that the NPT regime successfully meets these challenges. President Bush has taken important steps in this direction, acting emphatically to prevent and reverse the spread of WMD technology, and advancing groundbreaking new initiatives in bilateral, multilateral, and international fora to strengthen the regime and adapt it to contemporary problems. Taking stronger collective action now to promote NPT compliance will help to ensure that future generations can live in a world made safer by controlling the proliferation of nuclear weapons.